

News Release



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U.S. Department of Labor Sues Alabama Company and Executive For Misusing More Than \$1 Million in Pension Assets

ATLANTA – The U. S. Department of Labor has filed suit against H&H Doors and Hardware Inc., Dothan, Ala., and its former vice president, for misusing \$1,216,232 in assets from the company retirement plan.

“We are aggressively enforcing the law to protect the retirement funds of working men and women,” said Secretary of Labor Elaine L. Chao. “We are taking this case to court to ensure that these workers receive future benefits owed to them. Last year, the department achieved on behalf of workers record monetary results totaling \$3.1 billion for retirement, 401(k), health and other programs.”

The Labor Department lawsuit alleges that Mark Hartzog and the company violated the Employee Retirement Income Security Act (ERISA) by transferring plan assets held in bank, brokerage and investment accounts to the accounts of H&H and Mark Hartzog and using the plan’s assets as security for a corporate loan. Hartzog, as the plan’s trustee, also allegedly failed to collect numerous outstanding participant loans owed to the plan.

The suit seeks a court order to require that Hartzog and H&H restore all monies owed to the plan, with interest; return all illegal profits received by them; and offset Hartzog’s plan account in the amount of the losses to the plan. The department also asks the court to permanently bar the defendants from service to employee benefit plans governed by ERISA in the future and to appoint an independent trustee to administer the plan.

The retirement plan covered as many as 17 participants and had \$1,131,198 in assets at the end of 2000. Mark Hartzog was removed as vice president of H&H and as plan trustee in 2002 after his actions were discovered.

The suit, filed in federal district court in the Middle District of Alabama, resulted from an investigation conducted by the Atlanta regional office of the Labor Department’s Employee Benefits Security Administration (EBSA). Employers and workers can reach EBSA’s Atlanta office at (404) 562-2156 or through the agency’s toll-free number at **1-866-444-EBSA (3272)** for help with problems relating to private-sector retirement and health plans.

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(Chao v. H&H Doors and Hardware)
Civil Action No. 1:05-cv-00267-DRB